

Exhibit E

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

BROOKS BROTHERS,
A DIVISION OF RETAIL BRAND ALLIANCE, INC.
Employer-Petitioner

and

Case 02-UC-062745

LOCAL 340 AND LOCAL 25, NEW YORK,
NEW JERSEY REGIONAL JOINT BOARD
Unions

ORDER

The Unions' Request for Review of the Regional Director's Decision on Unit Clarification Petition is denied as it raises no substantial issues warranting review.¹

MARK GASTON PEARCE,	CHAIRMAN
PHILIP A. MISCIMARRA,	MEMBER
KENT Y. HIROZAWA,	MEMBER

Dated, Washington, D.C., September 21, 2015

¹ In denying review, we also find no merit in the Union's contentions regarding the Employer's compliance with the Unions' hearing subpoenas, for the reasons set forth in the Regional Director's rulings.

The Regional Director's decision granted the Employer's petition for clarification and excluded the employees working at the Employer's store located at 1180 Madison Avenue in New York City. In denying the Unions' request for review, we note that, during the period when the Unions sought recognition, the unit employees who were working at the 1180 Madison Avenue store were only temporarily assigned to that location. Accordingly, the Unions cannot establish majority status based on their employment at the store. See *Bannon Mills, Inc.*, 146 NLRB 611, 612 (1964)(temporary employees excluded for purposes of determining majority status via card check); see also *Marian Medical Center*, 339 NLRB 127, 127-129 (2003)(temporary transferee to bargaining-unit position not eligible to vote in representation election), and cases cited. Our denial of review does not preclude the Unions from seeking to include these employees in the current bargaining units, either through a showing of majority status pursuant to an additional stores contractual provision, see *Kroger Co.*, 219 NLRB 388 (1975), or by filing a representation petition. See *Goldsmith-Louison Cadillac Corp.*, 299 NLRB 520, 520 fn. 1 (1975).

Regional Director-Region 2

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